

REMARKS

This application has been reviewed in light of the final Office Action dated April 7, 2004. In view of the foregoing amendments and the following remarks, favorable reconsideration and withdrawal of the rejections set forth in the Office Action are respectfully requested.

Claims 1-12 are pending, and have been amended. Among the amended claims, Claims 6 and 12 have been withdrawn. Support for the claim changes can be found in the original disclosure, e.g., at page 12, lines 13-18. Therefore no new matter has been added. Claims 1, 6, 7 and 12 are in independent form.

A substitute specification is being submitted herewith to improve the form of the specification.

Claims 1 and 5 were rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 4,783,821 (*Muller et al.*). Claims 2-4 and 7-11 were rejected under 35 U.S.C. § 103 as being unpatentable over *Muller et al.*

In response, while not conceding the propriety of the rejections, independent Claims 1 and 7 have been amended. Applicants submit that as amended, these claims are allowable for at least the following reasons.

One feature of the invention as set forth in independent Claims 1 and 7 is a vibrational plate including a layer of a monocrystal material or a layer of a monocrystal material containing an element which is different from an element constituting the monocrystal material, the vibrational plate being sandwiched by oxide layers.

Muller et al. relates to an IC processed piezoelectric microphone including an SiN

diaphragm 22 sandwiched between layers of SiO₂. However, nothing in *Muller et al.* is seen to teach or suggest the above-noted feature of Claims 1 and 7 including, for example, the recited monocrystal material.

Since *Muller et al.* is not seen to contain all of the elements of independent Claim 1 or 7, those claims are believed to be allowable over the cited art.

A review of the other art of record has failed to reveal anything which, in Applicants' opinion, would remedy the deficiencies of the art discussed above, as a reference against independent Claims 1 and 7. Those claims are therefore believed patentable over the art of record.

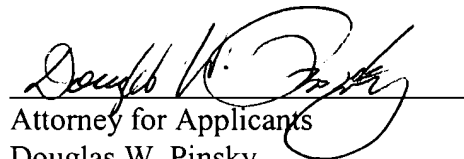
The other claims presented for examination are each dependent from independent Claim 1 or 7 and are therefore believed patentable for at least the same reasons. Since each of these dependent claims is also deemed to define an additional aspect of the invention, however, the individual reconsideration of the patentability of each on its own merits is respectfully requested.

Applicants submit that this Amendment After Final Rejection clearly places the subject application in condition for allowance. This Amendment was not presented earlier because Applicants believed that the prior Amendment placed the subject application in condition for allowance. Accordingly, entry of the instant Amendment, as an earnest attempt to advance prosecution and reduce the number of issues, is requested under 37 C.F.R. § 1.116.

In view of the foregoing amendments and remarks, Applicants respectfully request favorable reconsideration and early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below-listed address.

Respectfully submitted,


Attorney for Applicants
Douglas W. Pinsky
Registration No. 46,994

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200